



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com

April 27, 2018

By Electronic Mail

Ms. Susan Bodine
Assistant Administrator
Office of Enforcement & Compliance Assurance
U.S. Environmental Protection Agency
Mail Code 2201A
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Mr. Phillip A. Brooks
Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Mail Code 2242A
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Re: Modification of April 23, 2018, No-Action Assurance Extension Request - Puerto Rico Electric Power Authority

Dear Ms. Bodine and Mr. Brooks:

I write on behalf of the Puerto Rico Electric Power Authority ("PREPA") to modify the scope of the No-Action Assurance ("NAA") extension request that was submitted to the United States Environmental Protection Agency ("EPA") on April 23, 2018. In response to PREPA's April 23rd request for an extension of the NAA, EPA has requested that PREPA consider whether it can narrow the scope and duration of its request. In response to EPA's request, PREPA proposes the following revised scope and timeline for extension the NAA.

I. Conditions for Which PREPA Requests an NAA Extension Until May 31, 2018

PREPA emphasizes that twenty-two (22) percent of its major transmission lines (230 kV and 115 kV) are still not in service, including core north-south transmission lines near the Aguirre Power Complex. However, while surges and electrical disturbances associated with this reality continue to be a significant problem (as demonstrated by recent blackouts), PREPA is hopeful that they will have decreased in frequency by the end of May as PREPA continues to repair transmission lines. While issues are likely to extend into June, PREPA will limit the scope of its NAA extension request with the understanding that if the above-described conditions persist, then PREPA may very well

Hogan Lovells US LLP is a limited liability partnership registered in the District of Columbia. "Hogan Lovells" is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP, with offices in: Alicante Amsterdam Baltimore Beijing Birmingham Boston Brussels Caracas Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanoi Ho Chi Minh City Hong Kong Houston Johannesburg London Los Angeles Luxembourg Madrid Mexico City Miami Milan Minneapolis Monterrey Moscow Munich New York Northern Virginia Paris Perth Philadelphia Rio de Janeiro Rome San Francisco São Paulo Shanghai Silicon Valley Singapore Sydney Tokyo Ulaanbaatar Warsaw Washington DC Associated offices: Budapest Jakarta Shanghai FTZ Zagreb. Business Service Centers: Johannesburg Louisville. For more information see www.hoganlovells.com

need to request a further extension of time. Similarly, while certain equipment is still damaged at Aguirre, PREPA may be able to fix this equipment before the end of May. Accordingly, PREPA modifies its April 23, 2018 request to ask for an extension of time to May 31, 2018, for the following conditions:

- Emissions limits (including but not limited to opacity limits) at PREPA's electric generating units other than Costa Sur and Cambalache, related to episodic electrical disturbances;
- Unit and/or control equipment malfunctions, shutdowns or restarts, except at Costa Sur and Cambalache;
- Inoperable or damaged water injection equipment at the Mayaguez facility, to the extent caused by electrical disturbances; and inoperable or damaged steam injection equipment at San Juan units 5 and 6, to the extent caused by electrical disturbances;
- Inoperable or damaged process, production, control or monitoring equipment (excluding all fuel analysis activities) at Aguirre unit 1;
- The shutdown or bypass of air pollution control equipment to shed parasitic load at Mayaguez and San Juan, to the extent problems are due to electrical disturbances.

PREPA can narrow the scope of its relief with respect to: "Emissions limits (including but not limited to opacity limits) at the Aguirre facility from operating the Aguirre facility at low load output levels[.]" PREPA only requests extension of the relief for emissions limits from Aguirre for opacity limits. To reduce the duration of its extension request, PREPA will request this relief until May 31, 2018.

II. Conditions for Which PREPA Continues to Request an NAA Extension Until June 30, 2018

There are three core areas for which PREPA will need continued relief after May 31, 2018. PREPA is requesting relief for these areas until June 30, 2018. These three areas are: (i) compliance with MATS; (ii) temporary operation of mobile diesel generators to restore power and start units and auxiliary equipment; and (ii) reporting and recordkeeping requirements. The rationales for each area are discussed below:

A. Compliance with MATS

PREPA's April 23rd request for an extension of the NAA outlines PREPA's request for MATS-related relief with respect to the following issues:

- Operation in excess of heat input limits at San Juan units 7 and 8 and Palo Seco unit 1;
- MATS compliance at Aguirre;
- Emissions deviations resulting from cycling problems at plants subject to MATS, other than Costa Sur; and
- MATS testing deadlines at Aguirre Units 1-2, Costa Sur Units 5-6, San Juan Unit 9, and Palo Seco Unit 3.

As noted above, twenty-two (22) percent of the island's transmission lines continue to be out-of-service—including lines affecting critical transmission corridors near Aguirre that connect Aguirre to major metropolitan centers. The unavailability of these lines continues to affect PREPA's ability to comply with MATS. In PREPA's April 23 request, PREPA reported that the Aguirre Power Complex

was still operating at limited loads of approximately 435 MW out of a total capacity of 1536 MW (which includes the steam units, combined cycle units, and combustion turbine). PREPA is only able to operate one of the two 450 MW steam generating units at a time, and must do so at limited loads. This affects Aguirre's ability to comply with MATS and precludes testing until the steam units are operating at or near full loads. PREPA will then need some time to schedule this testing, which can require significant lead time, given that contractors are not based in Puerto Rico, and must come from the continental United States. Given the current status of Aguirre, PREPA will not be able to secure a testing date before the end of May, and anticipates that Aguirre will continue to have MATS compliance issues due to the transmission line situation beyond May 31, 2018.

As a consequence of the limited availability of Aguirre, PREPA must operate its limited-use units to help compensate for Aguirre's unavailability. For this reason, PREPA also requests an extension of the NAA with respect to operation in excess of the heat-input limit for its three limited-use units (San Juan Units 7 and 8 and Palo Seco Unit 1) until June 30, 2018. Until Aguirre is able to operate normally, flexibility to use these units will be critical to meet demand on the island, and unfortunately, given the current status of the transmission system, PREPA is concerned that Aguirre will not be able to return to normal levels until June.

Because of continuing disruption associated with the electrical transmission system and the necessity for PREPA's baseload units to cycle to accommodate load, PREPA continues to request an extension of emissions deviations resulting from cycling problems at plants subject to MATS, other than Costa Sur, until June 30, 2018.

And finally, PREPA is in contact with its contractor to schedule MATS audit testing (relative and correlation response audits) for Costa Sur Units 5-6, San Juan Unit 9, and Palo Seco Unit 3. However, in light of the above and the availability of the contractor, PREPA anticipates that the audits will be scheduled in mid-June. Accordingly, PREPA requests an extension until June 30, 2018.

B. Temporary operation of mobile diesel generators to restore power and start units and auxiliary equipment

PREPA continues to request an extension of the NAA until June 30, 2018, with respect to this issue because of the vital importance mobile diesel generators are continuing to play in the power restoration effort, and because PREPA expects the circumstances necessitating their use will continue until June. As demonstrated in PREPA's April 23 request, blackouts remain a concern, and will continue to remain a concern until the remaining major transmission lines are repaired; PREPA needs to be able to restore power in their aftermath. Further, as discussed above, critical transmission lines in the south and east are still damaged, necessitating PREPA's continued use of generators. The generators at Palo Seco are necessary because of the reduced load at Aguirre, which is likely to continue into June, as described above. These generators are operating at all times to help compensate for the limitations at Aguirre and are needed to ensure reliability in the north. In addition, generators at Yabucoa are currently functioning as a micro grid. Key transmission lines in the eastern part of the island remain out-of-service, and the Yabucoa generators remain necessary to supply power to this part of the island. Given the vital importance of generators in ensuring clients receive power, and the significant damage that still remains to the transmission system, PREPA requests that EPA extend this element of the NAA until June 30, 2018.

C. Reporting and recordkeeping requirements

PREPA continues to face a reporting backlog from the many months during which it was focusing its efforts almost exclusively on ending the most severe blackout in American history. PREPA has been submitting reports as quickly as possible and is catching up, but it faced another

substantial set-back with a major cyber-attack that occurred in mid-March, which caused PREPA to lose work it had already done, and the effects of which continue to slow reporting efforts. PREPA thus requests an extension of the NAA until June 30, 2018 for this condition.

III. Conclusion

PREPA greatly appreciates EPA's continued commitment to working with PREPA to ensure that its hurricane recovery and power restoration efforts are successful. We thank EPA for its consideration of the revised NAA timeline and justification outlined above.

Respectfully submitted,



Adam Kushner

Partner

adam.kushner@hoganlovells.com

D +1 202 637 5724

Cc: Mr. Lawrence Starfield, Principal Deputy Assistant Administrator
Mr. Peter Lopez, Regional Administrator, EPA Region 2
Mr. Eric Schaaf, EPA Region 2 Counsel
Ms. Carmen Guerrero, Director, EPA Caribbean Environmental Protection Division
Ms. Tania Vázquez Rivera, President, Puerto Rico Environmental Quality Board
Mr. John Fogarty, Associate Director, EPA Office of Civil Enforcement
Ms. Apple Chapman, Deputy Director, EPA Air Enforcement Division
Mr. Gregory Fried, Chief, EPA Stationary Source Enforcement Branch
Mr. Peter Flynn, Senior Attorney, U.S. Department of Justice